

# **Exhibit A**

UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF PENNSYLVANIA EASTERN

IN RE: ) Bankruptcy No. 13-10087-SR  
 ) Chapter 11  
 )  
 )  
 )  
 )  
 )  
NTP MARBLE, INC., )  
 )  
 ) Philadelphia, PA  
 ) June 19, 2013  
Debtor. ) 10:35 a.m.

TRANSCRIPT OF HEARING  
BEFORE THE HONORABLE STEPHEN RASLAVICH  
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

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Unsecured Creditors: RICHARD RILEY, ESQUIRE  
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For Tasos Papadopoulos:	EDMOND M. GEORGE, ESQUIRE DAVID ALEXANDER BARNES, ESQUIRE OBERMAYER, REBMANN, MAXWELL & HIPPEL, LLP 1617 JFK BLVD. Suite 1900 Philadelphia, PA 19103-4210
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Mr. George

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1                   Your Honor, then I guess I then would have the next to  
2                   address the next business sort of issue would be the critical  
3                   vendor motion.

4                   THE COURT: Yes.

5                   MR. CIARDI: And I'd ask Your Honor's preference. You  
6                   may have some thoughts on the motion that may address it up  
7                   front, without knowing what the treatment will be to creditors  
8                   under the plan, and how we intend to address that, or -- I  
9                   don't know whether you'd rather see that in the context of the  
10                  agreements that are reached with the Committee, with all  
11                  creditors, so that you could view it in that context as well.

12                  So I -- I'm prepared to argue the critical vendor  
13                  motion. I'm also prepared to adjourn that one week so that  
14                  Your Honor has the plan, the proposed plan and the treatment  
15                  that's been agreed to hopefully by the Committee, in front of  
16                  you as part of that argument.

17                  I don't know what Your Honor's preference for that  
18                  would be. It maybe easier to have every --

19                  THE COURT: Well I would agree -- yes, I have a pretty  
20                  good feeling about not approving it until the rest of the stuff  
21                  it seems sorted out to me.

22                  So if you are out of that, that I'll just put it over  
23                  until next week as well.

24                  MR. CIARDI: That's fine, Your Honor.

25                  THE COURT: Okay. Now then does that just leave us

The Court

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1 with --

2 MR. CIARDI: That just leaves, I think, the motion  
3 to --

4 THE COURT: Expedited hearing. Well I think that it  
5 was beneficial that -- are you smiling, Mr. Barnes?

6 MR. BARNES: No, I'm not, Your Honor.

7 THE COURT: Good. I think it was beneficial that when  
8 I saw this I think last Monday or Tuesday, that I didn't speed  
9 it up and put it on for a hearing last Wednesday, and in the  
10 alternative put it on for a hearing this Wednesday, because it  
11 gave me time to calm down.

12 And over the course of the week, I assure you that I  
13 not only researched the legal issues of conduct at depositions  
14 and the scope of depositions, and so forth, but I read and  
15 reread the transcript.

16 And your behavior, Mr. Ciardi, was far from exemplary.

17 However, in 20 years I have never seen behavior as  
18 disgraceful as -- how do I pronounce that gentleman's name?

19 MR. KENNERLY: Mallife (phonetic), Your Honor.

20 THE COURT: Mallife. I see that Mr. Mallife is not  
21 present. I would have thought he would have had the courage  
22 and the dignity to appear here and face the consequences of  
23 what I have just characterized as the most disgraceful behavior  
24 I have seen in 20 years.

25 And I don't need to describe it any more, because it

The Court

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1 speaks for itself. There's a transcript. Shocking. It made  
2 me sick to my stomach to read his sarcastic, arrogant,  
3 braggadocio, his repeated, relentless attacks on his opponent's  
4 family, for goodness sakes.

5 And you were there, Mr. Barnes. He was most notably  
6 an embarrassment, a total embarrassment to himself, but an  
7 embarrassment to our entire profession, to the members of the  
8 Bar, to the members of the public. I felt terrible for the  
9 people who had to witness those immature, out-of-control,  
10 unprofessional tirades.

11 I felt sorry for the lawyers in the room. I felt  
12 sorry for the lay people, the court reporter, the interpreter.  
13 I simply cannot understand, under any set of circumstances  
14 under the sun, how a member of our profession could conduct  
15 himself in that fashion in a deposition.

16 I was stunned. And so, so disappointed. You've asked  
17 for sanctions, Mr. Ciardi. And I'm going to hold that aspect  
18 of it in abeyance, because I read Mr. George's motion today and  
19 I'm not particularly happy with the picture that's been painted  
20 of Ms. Papadopoulos, and her absence from the scheduled  
21 deposition at the last minute based on a claim of illness.

22 But I will address myself to certain other things.  
23 Oh, and one reason I'm inclined to hold the sanctions motion in  
24 abeyance, is because both sides failed to do what they should  
25 have done, what they repeatedly threatened each other with

The Court

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1                   doing throughout the session, which was to call the Judge.

2                   Both sides said any number of times, I'm going to call  
3                   the Judge, I'm going to call the Judge. Both sides said to  
4                   each other, so call the Judge, so call the Judge. Nobody  
5                   called the Judge.

6                   Had you called the Judge, I would have resolved the  
7                   issues for you early on and avoided what followed. I don't  
8                   know if Mr. Papadopoulos took pleasure in seeing this  
9                   out-of-control gunslinger of his make such a fool of himself at  
10                   the deposition.

11                  Maybe he thinks that's good, zealous advocacy. But,  
12                  you know, people with your depth of experience have to know  
13                  that there's a day reckoning. Every word was being taken down.  
14                  Sooner or later, someone was going to read this and say, what  
15                  do you think you are doing?

16                  Every objection is overruled. Mr. Papadopoulos will  
17                  reappear for a continued deposition, and he will answer  
18                  questions about all of those issues that were raised about his  
19                  background, about his business dealings, about his contacts  
20                  with people at the operation. And I took notes of Mr.  
21                  Mallife's objection to Mr. Papadopoulos being asked to identify  
22                  the people who were providing him with this information from  
23                  the company, because he feared that he would be discharged in  
24                  retaliation.

25                  And I don't take that lightly. But he will identify

The Court

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1 them. And if they are discharged in retaliation, then I'm sure  
2 consequences will follow from that. But he is going to testify  
3 to those matters. And what we're going to do is schedule it on  
4 a date that's mutually convenient for both sides and me.

5 (Transcriber change)

6 MR. GEORGE: I'm sorry, Judge, I --

7 THE COURT: -- and me as well. And I'll be sitting by  
8 the phone. And if there are objections or there is misconduct,  
9 I expect to be called.

10 Mr. George, I'm disappointed in your office. Mr.  
11 Barnes, you were there. You should have done something. I  
12 don't know whether this man needs anger management therapy,  
13 ethics training, or both. I suspect it's the latter. I  
14 suspect it's both.

15 MR. BARNES: I apologize to the Court, Your Honor.

16 THE COURT: I found myself wondering whether Mr.  
17 Mallife had mentors in his past, whether he has a family,  
18 whether in his past; law professors, perhaps. Maybe his law  
19 partners, maybe adult-aged children. And I wondered if he had  
20 such acquaintances whether he would be proud to have them read  
21 that deposition. To say his conduct was disgraceful does a  
22 disservice to those who are merely disgraceful. I had half a  
23 mind to simply bundle it up and send it to the Disciplinary  
24 Board. He needs discipline or help of some kind. That was  
25 atrocious. You know that, don't you?

The Court

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1                   MR. GEORGE: Yes, Judge. And I -- I take  
2 responsibility for it. Even though I wasn't there, Your Honor,  
3 it was my office's responsibility to make sure he behaved  
4 himself, and I failed at that.

5                   THE COURT: Grievously. I began by saying he didn't  
6 have the courage or dignity to appear, and, Mr. Kennerly, you  
7 seem to want to reply to that?

8                   MR. KENNERLY: Yes, Your Honor, because I must share  
9 in some of the blame for that. And the reason why he's not  
10 here is because when he first received the scheduling of it for  
11 today, he -- that same day -- where he is today, he's in  
12 another jurisdiction. He has two weeks left on a product  
13 liability case. He's the only counsel on it. It's the only  
14 testing they can do for it.

15                  He took the issue to me. I went through -- there's a  
16 discovery master on that case. It's been extended three times.  
17 I went through all the hearings of the discovery master to see  
18 if there was any opportunity that the discovery deadline could  
19 be reestablished because the testing has to be scheduled weeks  
20 or months in advance. I went through all that. I looked  
21 through his experts, what he was going to do. And upon  
22 reviewing that, I told him that for that case he really had no  
23 option, that there was no chance he could move discovery  
24 several weeks or months. And so I conferred with him on that.

25                  He -- it's my understanding that either he or Mr.

The Court

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1 Barnes -- I don't want to involve Mr. Barnes, but I can't  
2 remember who called the Court to see if it could be rescheduled  
3 earlier and the answer was no. So I conferred with him, and I  
4 told him I felt for that case he simply was the only person --  
5 he's the only counsel of record. He had to go to that testing.  
6 That had to occur or his client there was going to be  
7 sanctioned or precluded from evidence or whatnot. And so I --  
8 I advised him that I would come here, even though it would be  
9 obviously not the ideal or preferable source. So, Your Honor,  
10 I must share in the blame for that.

11 The -- the second that I'd say to Your Honor is, in  
12 terms of Your Honor's remarks of -- Mr. Mallife, I know, has in  
13 the past spoken with Mr. Sam Stretton about some of how to  
14 practice law. And what I would offer to the Court is I can go  
15 right back to my office and I can send that deposition to Mr.  
16 Stretton. And I assure you that whatever Mr. Stretton tells  
17 him about it would be taken very well to heart.

18 I think that would be an appropriate -- I would not  
19 say final resolution, I know Your Honor is waiting for more on  
20 this, but I think that would be a -- a good faith effort  
21 forward on what to do. And I will certainly convey to Mr.  
22 Mallife the severity of the problem and importance to Your  
23 Honor, and convey the same to Mr. Stretton.

24 THE COURT: And suggest to Mr. Mallife that he  
25 acquaint himself with the seminal decision in this jurisdiction

The Court

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1 on these issues, being Judge Gawthrop's decision back in '93,  
2 Clifton Precision. He should also read Judge Pollak's 2008  
3 decision in Hopkins v. New Day Financial, where Judge Pollak  
4 talks about the, quote, defense of depositions, end quote, and  
5 issues of relevance. Judge Pollak in that case was faced with  
6 counsel defending a deposition. And he said that the counsel  
7 took what could be described as, quote, an active role, closed  
8 quote.

9 I do not share, unfortunately, the temperance of Judge  
10 Pollak -- the late Judge Pollak, for whom I have the greatest  
11 respect. So I am compelled to vent some of my umbrage at what  
12 transpired, no doubt, in a way that Judge Pollak would have  
13 managed to avoid.

14 There are a legion of other cases germane to this  
15 topic. I think one of the comments that stuck with me in  
16 particular when Mr. Mallife, obviously in a loud tone of voice,  
17 since he was remonstrated to lower his voice any number of  
18 times, declared himself to, quote, be in control here, end  
19 quote. And I thought this man is -- is an out-of-control  
20 megalomaniac. He had a very limited role there that day. He  
21 was not, quote, in control, closed quote. Shocking.

22 Confirm on yourselves and come up with a series of  
23 three dates, so that I can attempt to accommodate them into my  
24 schedule sometime over the next two or three weeks. It's  
25 summer; it's the holiday. So do that, and then contact my